

## Federal Acquisition Regulation

## 50.102-3

- (a) The contractor's request;
- (b) All relevant memorandums, correspondence, affidavits, and other pertinent documents;
- (c) The Memorandum of Decision (see 50.103-6 and 50.104-2); and
- (d) A copy of the contractual document implementing an approved request.

### 50.102 Delegation of and limitations on exercise of authority.

#### 50.102-1 Delegation of authority.

An agency head may delegate in writing authority under Pub. L. 85-804 and E.O. 10789, subject to the following limitations:

- (a) Authority delegated shall be to a level high enough to ensure uniformity of action.
- (b) Authority to approve requests to obligate the Government in excess of \$65,000 may not be delegated below the secretarial level.
- (c) Regardless of dollar amount, authority to approve any amendment without consideration that increases the contract price or unit price may not be delegated below the secretarial level, except in extraordinary cases or classes of cases when the agency head finds that special circumstances clearly justify such delegation.
- (d) Regardless of dollar amount, authority to indemnify against unusually hazardous or nuclear risks, including extension of such indemnification to subcontracts, shall be exercised only by the Secretary or Administrator of the agency concerned, the Public Printer, or the Chairman of the Board of Directors of the Tennessee Valley Authority (see 50.104-3).

[72 FR 63030, Nov. 7, 2007, as amended at 75 FR 53134, Aug. 30, 2010]

#### 50.102-2 Contract adjustment boards.

An agency head may establish a contract adjustment board with authority to approve, authorize, and direct appropriate action under this Subpart 50.1 and to make all appropriate determinations and findings. The decisions of the board shall not be subject to appeal; however, the board may reconsider and modify, correct, or reverse its previous decisions. The board shall determine its own procedures and have authority

to take all action necessary or appropriate to conduct its functions.

### 50.102-3 Limitations on exercise of authority.

- (a) Pub. L. 85-804 is not authority for—

- (1) Using a cost-plus-a-percentage-of-cost system of contracting;
- (2) Making any contract that violates existing law limiting profit or fees;
- (3) Providing for other than full and open competition for award of contracts for supplies or services; or
- (4) Waiving any bid bond, payment bond, performance bond, or other bond required by law.

- (b) No contract, amendment, or modification shall be made under Pub. L. 85-804's authority—

- (1) Unless the approving authority finds that the action will facilitate the national defense;
- (2) Unless other legal authority within the agency concerned is deemed to be lacking or inadequate;
- (3) Except within the limits of the amounts appropriated and the statutory contract authorization (however, indemnification agreements authorized by an agency head (50.104-3) are not limited to amounts appropriated or to contract authorization); and
- (4) That will obligate the Government for any amount over \$31.5 million, unless the Senate and House Committees on Armed Services are notified in writing of the proposed obligation and 60 days of continuous session of Congress have passed since the transmittal of such notification. However, this paragraph (b)(4) does not apply to indemnification agreements authorized under 50.104-3.

- (c) No contract shall be amended or modified unless the contractor submits a request before all obligations (including final payment) under the contract have been discharged. No amendment or modification shall increase the contract price to an amount higher than the lowest rejected bid of any responsible bidder, if the contract was negotiated under 10 U.S.C. 2304(a)(15) or 41 U.S.C. 252(c)(14), or FAR 14.404-1(f).

- (d) No informal commitment shall be formalized unless—

- (1) The contractor submits a written request for payment within 6 months